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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

20 Cr. 160 (MKV)

5 JORGE NAVARRO,

6 Sentence

7 Defendant.

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8 New York, N.Y.
9 December 17, 2021
10 10:00 a.m.

11 Before:

12 HON. MARY KAY VYSKOCIL,

13 District Judge

14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
Southern District of New York

17 SARAH MORTAZAVI

ANDREW ADAMS

18 Assistant United States Attorney

19 JASON W. KREISS

20 Attorney for Defendant

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(In open court)

THE COURT: Good morning, please be seated everyone.

THE DEPUTY CLERK: Counsel, starting with the government, please state your name for the record.

MS. MORTAZAVI: Good morning, your Honor. Sarah Mortazavi present for the government. And with me at counsel table is Andrew Adams, and from the FBI, Special Agent Timothy Bergen.

THE COURT: Good morning, Ms. Mortazavi, Mr. Adams and Mr. Bergen.

MR. KREISS: Good morning, your Honor. Jason Kreiss on behalf of Jorge Navarro, who is seated to my left.

THE COURT: Good morning, Mr. Kreiss and Mr. Navarro.

THE DEFENDANT: Good morning.

THE COURT: Good morning too to our court reporter. Thank you for being here.

So good morning everyone, as you know, I'm Judge Vyskocil, we're here this morning for the purpose of sentencing Mr. Navarro. Before we proceed, Mr. Navarro, I just want to confirm -- I believe you told me at the time of your plea -- you do speak and understand English clearly?

THE DEFENDANT: Yes, your Honor.

THE COURT: You do not need an interpreter?

THE DEFENDANT: No, your Honor.

THE COURT: Ms. Mortazavi, are you taking the lead

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1 this morning?

2 MS. MORTAZAVI: Yes, your Honor, I am.

3 THE COURT: Have any victims who are entitled to
4 notice been provided with notice of today's proceeding?

5 MS. MORTAZAVI: Yes, your Honor. They have all been
6 notified.

7 THE COURT: Thank you.

8 As everyone is aware, Mr. Navarro pleaded guilty on
9 August 11th of this year pursuant to an agreement with the
10 government to one count of conspiracy to commit drug
11 adulteration and misbranding in violation of Title 18 United
12 States Code §371. Since that time, the probation office has
13 completed its investigation and the parties have filed with the
14 Court their sentencing submissions.

15 The following documents have been received and are
16 part of the record in this matter: The Court has received the
17 final presentence report filed on November 4th, 2021, and that
18 is on the docket at ECF 550. That final report reflects that
19 certain revisions were made by mutual agreement, as I
20 understand it, of the parties in response to comments or
21 objections that were lodged. Specifically, certain revisions
22 were made to the offense section, paragraphs 32 and 33.

23 The Court has also received the defendant's sentencing
24 submission filed on December 3rd, 2021. That's filed at ECF
25 582. Together with that submission, there were roughly 100

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1 pages of letters that were submitted in support of or on behalf
2 of Mr. Navarro. And the Court has received the government's
3 sentencing submission filed on December 10, 2021, that's filed
4 at ECF 592, and it attaches Exhibits A through D. And I also
5 have received a proposed order of restitution, which I'll
6 discuss with the parties in a moment.

7 Certain portions of the government's submission were
8 redacted in the version filed on ECF, but an unredacted version
9 has been filed under seal. It's the Court's understanding --
10 well, I want to clarify. Are the exhibits under seal?

11 MS. MORTAZAVI: Yes, your Honor. The government has
12 sought to file them under seal pursuant to the Court's
13 protective order.

14 THE COURT: All of the exhibits?

15 MS. MORTAZAVI: That's correct.

16 THE COURT: Thank you.

17 And then, finally, the Court received on December 13th
18 a letter from Mr. Navarro's counsel that is filed on the docket
19 at ECF 594, and I also intend to discuss that further with you,
20 Mr. Kreiss.

21 So let me confirm with each of the parties.
22 Mr. Kreiss, have you read and fully discussed that presentence
23 report with Mr. Navarro?

24 MR. KREISS: Absolutely, your Honor.

25 THE COURT: Mr. Navarro, have you read and reviewed

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1 that presentence report with your counsel?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Have you had a full and fair opportunity
4 to do so?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Were you given a full and fair opportunity
7 to make any objections that you might have to that report?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Ms. Mortazavi, has the government had an
10 opportunity to review the presentence report and to tender any
11 objections?

12 MS. MORTAZAVI: Yes, your Honor. And I would note
13 that the government has also reviewed a few submissions that
14 were filed by the Court yesterday at ECF No. 600, 601, 602 and
15 603.

16 THE COURT: Thank you. Thank you for adding them to
17 what is before the Court, although I am going to mention them
18 later. I'll leave it at that for now.

19 Are there any objections that anyone wishes to make at
20 this time to the presentence report that have not previously
21 been lodged?

22 MS. MORTAZAVI: Nothing from the government.

23 THE COURT: Mr. Kreiss.

24 MR. KREISS: No legal or factual objections, your
25 Honor.

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1 THE COURT: Thank you very much.

2 As I said, I have a few questions I'd like to discuss
3 before we proceed.

4 So Mr. Kreiss, first, the letter that you filed on
5 December 13th, can you tell me, please, what that letter means.

6 MR. KREISS: Exactly what I said in the letter, your
7 Honor. I inadvertently made an argument in my sentencing
8 memorandum and it was made in error. And when I was made aware
9 of it, I immediately contacted the government and sought to
10 retract it.

11 THE COURT: What the Court would like to understand is
12 are you stipulating to the 60-month sentencing guideline or are
13 you reserving your right to argue still for a variance based on
14 those same arguments?

15 MR. KREISS: No. And I want to make it very clear.
16 We are absolutely agreeing that the advisory guideline is 60
17 months, and I made that clear in my memorandum. I included an
18 argument in error, I have retracted it. And yes, I'm seeking a
19 variance from the 60 months, but having nothing to do with the
20 issue of the three points for acceptance.

21 THE COURT: Thank you.

22 Is that acceptable to the government at this point?

23 MS. MORTAZAVI: Yes, your Honor. If the defendant
24 intends to retract that argument, he's no longer in breach of
25 the plea agreement.

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1 THE COURT: Thank you.

2 Then I would also like to confirm with you,
3 Mr. Kreiss, that you have read and reviewed with Mr. Navarro
4 all of the proposed conditions of supervised release that are
5 set forth in the sentencing report.

6 MR. KREISS: We have reviewed the PSR in its entirety,
7 your Honor.

8 THE COURT: Have you specifically reviewed those
9 proposed conditions?

10 MR. KREISS: We've gone over everything, your Honor.

11 THE COURT: So what I would like to confirm with
12 you -- give me a moment to get the exact page -- those
13 conditions fall into three categories, as I think you know,
14 mandatory conditions are laid out on pages 37 and 38 of the
15 report, the proposed standard conditions are on page 38 through
16 39 of the report, and then there are certain proposed special
17 conditions on page 39.

18 Mr. Navarro, have you reviewed those with Mr. Kreiss?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: And you understand them all?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Mr. Kreiss, the question I have for you
23 is: Are you comfortable and is it acceptable to you for me to
24 refer generically to those conditions as mandatory, standard
25 and special conditions without putting anything specific in

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1 that regard on the record?

2 MR. KREISS: Absolutely, your Honor.

3 THE COURT: Thank you.

4 Finally, Ms. Mortazavi, does the government still
5 agree -- particularly in light of our conversation so far this
6 morning -- that Mr. Navarro is entitled to the two level
7 reduction in the offense level calculation based on his, quote,
8 clear acceptance of responsibility pursuant to Section 3E1.1A
9 and a further one level reduction under Section 3E1.1B by
10 reason of Mr. Navarro's timely notice of his intent to enter a
11 plea?

12 MS. MORTAZAVI: Yes, your Honor. We agree that he's
13 entitled to those acceptance points and that calculation was
14 reflected in the parties' plea agreement.

15 THE COURT: The Court will grant the motion for that
16 further one level reduction in the guidelines calculation.

17 So I would note for the record that the stipulated
18 guidelines calculation is consistent with what is set forth in
19 the presentence report. It is also, as I'll discuss in some
20 detail in a moment, consistent with the Court's own
21 calculation.

22 So at this time, I would like to give the parties the
23 opportunity to address the Court. Before I do, I'm going to
24 depart a little bit from what I usually do and give you my
25 current sense of where I intend to come out today so that the

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1 parties can address that when you speak to the Court, if you
2 wish to do so.

3 So at this time, the Court is strongly inclined to
4 sentence Mr. Navarro to the statutory maximum sentence of 60
5 months' imprisonment. As Mr. Navarro has acknowledged in his
6 sentencing submission and as his counsel just acknowledged a
7 few minutes ago -- well, he didn't acknowledge this part -- but
8 the statutory maximum is lower than Mr. Navarro's calculated
9 sentencing guideline range. And as such, under the guidelines
10 is the guideline sentence. Taking into account the serious
11 nature and circumstances of the offense, the history and
12 characteristics of Mr. Navarro and all of the other sentencing
13 factors under §3553(a) as a whole, it is the Court's view that
14 the statutory maximum of 60 months of imprisonment is the only
15 sentence available that might provide a just outcome in this
16 case.

17 Ms. Mortazavi, do you wish to address the Court?

18 MS. MORTAZAVI: Yes, your Honor.

19 I have a few remarks regarding the defendant's
20 conduct, though I understand the Court's statements of a few
21 minutes ago, and it seems that the Court is aligned with the
22 government's view that the statutory maximum sentence, the
23 stipulated guidelines range is appropriate here.

24 There have been, obviously, many papers filed in this
25 case in relation to the litigation of this matter, as well as

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1 this sentencing proceeding and, in particular, many letters
2 filed by the defendant. But if this Court wants a window into
3 Jorge Navarro and how he viewed the horses under his control,
4 then this Court should look to the communications that the
5 defendant made in private with his trusted inner circle when he
6 thought nobody was listening. When the defendant spoke with
7 people who he believed were like him, who he believed shared
8 his world view, the defendant spoke candidly about doping
9 horses. These were people like the defendant who abdicated
10 their responsibilities to the horses that they were supposed to
11 protect, people who treated horses as commodities to be used as
12 a means to fame and riches and prestige, people who publicly
13 claimed to love animals, but privately injected and tubed and
14 electroshocked racehorses. These horses were pushed up to and
15 beyond their natural abilities. Also, the defendant and those
16 in his inner circle could maintain their own status, build
17 their prestige and gain access to even more horses that they
18 could dope and abuse. These are the hallmarks of the
19 defendant's greed.

20 In public, the defendant perpetuated the fraudulent
21 pretense that he loved his horses and that his success was due
22 to his acumen as a horseman. And it was simply not true. In
23 private, the defendant and those in his inner circle made jokes
24 and made light of the defendant's prolific, callous, dangerous,
25 fraudulent doping. They exchanged gifts of syringes that were

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1 filled with dollar bills. They exchanged emojis of a monkey, a
2 syringe, a horse, pills, all to reflect the defendant's most
3 potent and preferred blood builder of choice, something that
4 they called monkey.

5 Marcos Zulueta, an indicted coconspirator of the
6 defendant's joked that if Jorge Navarro kept winning races, he
7 would be arrested. To Navarro and his close friends, doping
8 was a joke. It was a crime that he was able to perpetuate for
9 years across multiple barns, across multiple states, involving
10 dozens of racehorses. And because of Navarro's status as a
11 trainer, he had unfettered opportunity to inject and drench and
12 shock his horses with all manner of drugs for no medical
13 purpose. And he did not do it alone.

14 I want to make brief mention, your Honor, of the
15 letters of support that the defendant has submitted to the
16 court, because those letters of support, frankly, are shocking.
17 It is shocking for one of the defendant's supporters to suggest
18 that he turned horses around because of TLC.

19 Navarro didn't train his horses due to any skill or
20 compassion or talent. He relied on a bevy of drugs. He
21 aggressively pursued any avenue of novel drugs from any source
22 that he trusted to test out on his horses. He asked many
23 others for tips on new drugs. And when he did so, he asked,
24 did the drugs work. He didn't ask what was in them; he asked
25 if they would work and if they would test, because that is what

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1 the defendant cared about. He did not care about the risk of
2 injecting an unknown, unlabeled, unapproved substance into a
3 horse. He did not care about the risk of accidentally
4 suffocating a horse by having a layperson drench the animal.
5 He did not care about injecting a horse with a contaminated
6 drug. He did not care about overdosing a horse. He did not
7 care about pushing a horse so far beyond its natural limits
8 that its heart literally stopped. Navarro only wanted to know
9 if a drug would work and if it would test. And that much is
10 apparent from defendant's conversations with others, where he
11 discussed a steroid that caused horses to sweat uncontrollably,
12 a new pain injection so potent that it caused four horses to
13 die, and drenching by one of his friends that, if administered
14 incorrectly, could be funneled into a horse's lungs and cause
15 that horse to drown. Navarro cared about winning and not
16 getting caught.

17 What else is shocking about those letters are the
18 number of statements that recite Navarro's trainer statistics
19 and professional accolades as a reflection of his character or
20 his integrity or his skill as a trainer. Navarro's career as a
21 racehorse trainer is a sham. It is built on an elaborate,
22 sprawling, fraudulent scheme. And it is clear from those
23 letters that even the people surrounding the defendant new a
24 version of him that was built on lies. As a trainer, he was
25 dishonest, unprincipled and dangerous. As these letters show,

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1 the effects of Navarro's scheme are difficult to unravel.

2 It is also shocking to see the number of letters that
3 point this court to Navarro's love of X Y Jet as an indication
4 of the defendant's good character. X Y Jet was drugged with
5 reckless abandon by the defendant in advance of races. That
6 horse, having undergone three knee surgeries, when it appeared
7 as if it would be unable to race a few days before a race at
8 Gulfstream Park was still pushed beyond its limits to race and
9 to win. At the thought that this horse would not be
10 competitive at that claiming race or that it should not compete
11 at all because it was too sick to do so, Navarro panicked and
12 he invoked the people in his trusted inner circle to get drugs
13 to force that horse to compete.

14 Across multiple races, Navarro used drugs from many
15 others and the effects were apparent. X Y Jet, who appeared
16 unable to compete at that race only a few days prior, won that
17 race in what was described as an easy victory. And several
18 weeks later at the Golden Shaheen race in Dubai, X Y Jet was
19 once again drugged by Navarro and in that race was so far
20 pushed past his limits that he won despite losing a shoe
21 halfway through the race in the middle of the track.

22 It is shocking still, your Honor, that X Y Jet's
23 veterinary surgeon would submit a letter to this court
24 suggesting that Navarro didn't dope that horse because he never
25 talked to Navarro about any illicit drugs. There's no doubt

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1 that Navarro doped X Y Jet, and there's no doubt that he did so
2 behind the back of this veterinary surgeon.

3 It is tragic, but ultimately unsurprising, that X Y
4 Jet at only eight years old died of a heart attack only two
5 weeks after his last race. He's a potent reminder of the
6 defendant's hypocrisy. And a reason why so many of these
7 letters are infected by the defendant's own fraud and the lies
8 that he perpetuated about his success.

9 Finally, your Honor, it is shocking the number of
10 complicit, unindicted coconspirators who wrote letters of
11 support for Navarro claiming he was a good trainer. This is
12 not someone who cared about his horses. This was not someone
13 who was particularly skilled. And these individuals had
14 clear-eyed knowledge of Navarro's doping scheme and nonetheless
15 wrote letters to this court intending to influence your
16 sentence here today. This attitude is emblematic of those
17 surrounding the defendant who helped perpetuate these crimes.

18 Your Honor, Navarro is notable because of his
19 aggressive pursuit of novel drugs. It is very difficult to
20 convey the breadth of all his conversations regarding his
21 doping scheme. What is clear is that he pursued every avenue
22 and he pursued it aggressively. And for that reason, your
23 Honor, as the Court has indicated it is inclined to do, we ask
24 that the Court impose the statutory maximum sentence of 60
25 months' imprisonment.

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1 It is also for that reason, your Honor, that we have
2 asked the Court to impose an additional special condition of
3 the defendant's probation that would require the defendant to
4 refrain from training and effectuate that limitation by
5 compelling him to give up any of his state racing licenses and
6 not apply for any new licenses during the term of his
7 probation.

8 And if the Court has any questions about our
9 submissions or any of the defendant's remarks in his
10 submissions, I'm happy to address those.

11 THE COURT: I don't have any questions. Thank you.

12 Mr. Kreiss, would you like to be heard?

13 MR. KREISS: I would, your Honor. Thank you.

14 And certainly, your Honor, at this point, we don't
15 make light of the gravity, the seriousness of this case. But
16 Mr. Navarro stands here before you having pled guilty. He's
17 accepted responsibility for his actions and does not seek to
18 blame anyone for his conduct but himself.

19 At the change of plea hearing, Mr. Navarro, addressed
20 the Court, gave a detailed admission, responded to the Court's
21 questions, which were additionally very detailed. And the
22 Court had inquired essentially what did you do and who did you
23 do it with. And I've sat through a lot of change of plea
24 hearings, a lot of sentencing hearings over the years and seen
25 a lot of folks backpedal. There was no backpedaling.

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1 Mr. Navarro has come in, he's accepted responsibility for his
2 actions. And I'm not here to contest the allegations made in
3 the government's remarks today.

4 The Court is saddled with a very difficult task, to
5 make a determination, to determine what sentence is reasonable
6 but not greater than necessary. We agree, the advisory
7 guideline is 60 months, that's the starting point. And I
8 understand the Court's initial statements, but we're asking the
9 Court to consider a variance. We're asking the Court to
10 consider Mr. Navarro's personal history and characteristics
11 beyond his offense conduct. And that's what the Supreme Court
12 has said in the progeny of many cases, essentially that the
13 Court has to look at other factors. And certainly, I've read
14 the letters, I have read the recent submissions, understand the
15 government's remarks, but we are asking you to see
16 Mr. Navarro's personal history and characteristics from some of
17 those who know him.

18 And I think one of the letters exemplifies this from
19 Mr. John Koenig. He says, whatever flaws he has, I feel Jorge
20 is at center good, compassionate and a caring human being.

21 Again, I recognize the serious nature of the offense.
22 This is one of those cases where certainly a lot of folks in
23 the public have reached out to the Court. This is a situation
24 where Mr. Navarro -- he started from the bottom and was a
25 skilled horseman. And he went wrong. And he admits his

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1 conduct, makes absolutely no excuses. He's explained what
2 became his reality. And he's here accepting responsibility for
3 his actions.

4 Unfortunately, the pressure, the being away from his
5 family -- and he's made the worst choices of his life. Those
6 choices are going to haunt him for the rest of his natural
7 life.

8 There is no concern about recidivism here. He will
9 never be a licensed trainer in the United States ever again.
10 He most likely won't remain in the United States.

11 But we're asking the Court, again, to consider his
12 personal history and characteristics. I think it's important.
13 A lot of cases, I've been in many sentencings where I look into
14 the back of the courtroom and there's nobody there.
15 Mr. Navarro has his family here. They're spread out through
16 the courtroom. His wife Jennifer, his daughter Taylor, his
17 daughter Ashley, his son Christian, his sister, his sister
18 Ruth, his sister Diana, his niece Crystal, and his mom intended
19 to be here, but unfortunately, she was hospitalized last week
20 and wasn't well enough to make it up here. There are lots of
21 situations where, in circumstances like this, there are no
22 family members, there's absolutely no support. Mr. Navarro is
23 lucky to have the folks that he has.

24 Again, Mr. Navarro is not here today, did not come in
25 back in August to contest anything. He came in to accept

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1 responsibility for his actions. As noted by probation and the
2 government, he was one of the first people to come in and enter
3 a plea publicly, which I would venture to say has had some
4 affect on subsequent pleas in this case.

5 By entering his plea, he's aided the government and
6 preserved resources of both the government and the court. He
7 has satisfied the forfeiture of \$70,000, which is significant
8 in this case. It was done timely. And Mr. Navarro has also
9 been out on bond for, it's going to be 21 months now, and he's
10 done everything he could do to comport and comply with the
11 orders of this court. He's done nothing to show that he's
12 failed to accept responsibility for his actions and certainly
13 has not committed any new law or technical violations.

14 It's hard for the Court to recognize -- and I
15 understand this -- there's a huge outpouring and there's an
16 overwhelming amount of evidence in this case, but Mr. Navarro
17 has admitted his conduct and he's not shirking his
18 responsibilities. He's here, he's pled guilty. We're asking
19 the Court to consider his personal history and characteristics.

20 And just briefly, I want to just mention a letter from
21 his daughter. And I quote her as saying, "My father was always
22 known to take the smaller people in, always giving someone a
23 chance. My father was the type to help anyone out no matter
24 what time it was. He always saw something in everyone. He
25 always made sure everything and everyone was taken care of

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1 before he took care of himself."

2 And that statement is in contradiction to the way he
3 acted in this case, and we recognize that. But we're asking
4 the Court to see those qualities.

5 The Court must certainly impose a sentence that
6 reflects the seriousness of the offense and respect for the
7 law. A sentence of less than 60 months would be reasonable,
8 but not greater than necessary.

9 This is a situation, Judge, where there's been so much
10 publicity. Mr. Navarro was arrested in his home in front of
11 his family, his neighbors. He's pled guilty to a federal
12 felony offense. He is now labeled a convicted felon for the
13 remainder of his life. He's lost his livelihood. And he's
14 most likely going to be deported at the end of the day. A
15 sentence of less than 60 months is not necessary to satisfy
16 this prong. Quite frankly, any sentence at this point, after
17 the government's actions. The prosecution in this case has
18 sent a message and it's loud and clear. If you use adulterated
19 substances, you're going to be prosecuted federally. This is a
20 case that's been followed very, very closely by the industry
21 media outlets, sometimes on a weekly and daily basis. And it's
22 clear, if you utilize adulterated or misbranded substances,
23 you're going to be prosecuted federally. The message is clear
24 that this is not the end of this case.

25 And when the Court is considering a sentence that,

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1 again, is sufficient, but not greater than necessary, to comply
2 with that purpose, 60 months is not necessary. Mr. Navarro has
3 been absent from horse racing now since the day he was
4 arrested. He's not gone back to it. He's quite frankly not
5 thought about going back to it. He lives in that environment,
6 very close, and he's done, he's done. He stands here
7 remorseful, contrite and only wishes he could roll back the
8 hands of time, which we know is impossible. The only thing he
9 can do is come in, accept his responsibility.

10 We're asking the Court to consider a sentence of 48
11 months, which we believe is sufficient, but not greater than
12 necessary. The other co-defendants that have publicly pled, I
13 believe, are facing statutory maximums of 36 months. And if
14 the Court were to sentence Mr. Navarro today to 48 months, this
15 would be essentially a third or a 33 percent increase from
16 those other folks who have pled to statutory maximums of 36
17 months, assuming they didn't receive any variances. It's a
18 significant percentage increase in his sentence above the
19 others who the government has made clear that Mr. Navarro is
20 more culpable. And a third or 33 percent increase in his
21 sentence would be reasonable under these circumstances.

22 Mr. Navarro, because of his immigration status is
23 likely to -- and I don't see any way that he would get the
24 benefits that US citizens would get -- and this case is
25 different than others, we're not asking the Court to give

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1 Mr. Navarro a benefit because he did something unlawfully. If
2 Mr. Navarro had entered the United States unlawfully recently
3 and committed a crime and we were arguing his deportation is a
4 further penalty, that would be very different than the
5 situation here. He came here when he was 13 years old.
6 Unfortunately, he was never naturalized.

7 But when he goes to prison, he will not go to a BOP
8 prison camp. He will most likely go to a low facility. And
9 those facilities, until very recently, we didn't have any in
10 Florida. There has been a change in the administration to not
11 utilize the private facilities. The closest recently was in
12 Georgia. The hope is that Mr. Navarro would be designated to a
13 facility in Florida to help facilitate family visitation. But
14 he won't get the benefits of the RDAP program. If he were to
15 qualify for the RDAP program like others in this case and in
16 other cases --

17 THE COURT: Does Mr. Navarro have a drug problem?

18 MR. KREISS: He doesn't, your Honor. But if there
19 was, he wouldn't qualify for early release after participating
20 in the program. He doesn't get an early release to a halfway
21 house. He's not eligible because he's not a United States
22 citizen. Again, he's going to serve his sentence in a very
23 different environment. He's not going to go to a prison camp.
24 And at the end of the day, he's going to be deported.

25 Again, there's no blame being passed here. He takes

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1 responsibility for his actions. But on top of this prison
2 sentence, he's going to be most likely deported from this
3 country. He's going to be separated from his family. Again, a
4 situation that he's put himself in, and he takes
5 responsibility, but a variable in his sentence that's different
6 than others.

7 Based upon those factors, we ask the Court to consider
8 a sentence of 48 months.

9 THE COURT: Thank you.

10 Mr. Navarro, do you wish to address the Court?

11 THE DEFENDANT: Yes.

12 THE COURT: You can remain seated if it's easier for
13 you, but please pull the microphone down so that the court
14 reporter can hear you.

15 THE DEFENDANT: Your Honor, I would like to start off
16 by apologizing to the Court, the government and most of all to
17 my family and my racetrack family. I was introduced to the
18 racetrack world at age 13 by my stepfather after coming to this
19 incredible country to live a new life. I knew, as I got older,
20 I wanted to become a trainer one day. I started from the
21 bottom as a hot walker, groom, as an assistant trainer for many
22 years. During my upbringing at the track, I also worked as a
23 vet tech. I wanted to learn more about young horses, so I
24 moved to Ocala to learn about training horses from an early
25 stage. The reason I wanted to learn every aspect of horses was

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1 because I wanted to have the knowledge of what it took to be
2 known as the best trainer in this country.

3 Over the years, as time went by, I became that trainer
4 that I prepared myself to be. What I didn't prepare myself for
5 was how to handle the pressure from the winnings, the losing,
6 the media, the owners and the negative backlash that comes from
7 the racing world or the racetrack world.

8 I pushed my family aside and I was giving all my time
9 to the sports that I love. I became hungry to be a winner.
10 Somewhere along the way, the pressure started to get to me. I
11 felt I had to win to become respected in the horse racing
12 industry without thinking of the consequences I face today.

13 I started as a trainer working with horses that people
14 gave up on, hoping one day I would be able to train top quality
15 thoroughbreds. Your Honor, I became a selfish person who only
16 cared about winning. I lost my way and betrayed my horses that
17 I adore and love so much. They were what I truly loved most
18 about being a trainer. They were by my side during my lonely
19 days, my hard days and my happy days. I only wish I could go
20 back in time and change the person I became.

21 I remember why I choose to be a trainer, which was my
22 love for the horses. It was the horses that brought me my
23 greatest joy.

24 Your Honor, I fully take responsibility for everything
25 I have done. And I apologize again to all the people I hurt,

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1 including my horses.

2 Now that I have spent two years away from the horses
3 and the racetrack, I have realized that there was no need to
4 change who I was as a horseman. I should have quit when I
5 couldn't handle the pressure, rather than putting my horses, my
6 family, my workers and the people who believe in me through all
7 this. It certainly wasn't worth it now that I'm going to
8 prison, facing deportation to a foreign country where I have no
9 one. During this time away from the track, I have become a
10 better man. I have had the time to make up for what my
11 devotion to the racetrack life took away from me -- took away
12 from my kids and my family. My kids are seeing their father
13 they knew they had. I'm enjoying things I took for granted
14 while I was a trainer. But there's still one thing I miss, the
15 horses.

16 Your Honor, this has been the hardest thing I have
17 ever gone through and my family has ever gone through. My kids
18 need me. I missed a lot of their time growing because of my
19 love for the horse racing. And I know now I don't want to lose
20 anymore time with my children and grandchildren.

21 I truly hope the industry changes to keep racehorses
22 safe in the future. I know my conduct deserves to be punished,
23 but I pray that you have mercy today. Thank you for allowing
24 me to address the Court.

25 THE COURT: Thank you, Mr. Navarro.

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1 THE DEFENDANT: You're welcome, your Honor.

2 THE COURT: At this time, I will describe the sentence
3 that I do intend to impose. The attorneys will have a final
4 opportunity to make any legal objection before sentence is
5 finally imposed.

6 Under the sentencing reform act of 1984 and governing
7 Supreme Court precedence, I must consider the sentencing
8 guidelines when determining a sentence. I must also, after
9 calculating the applicable sentencing guideline range and
10 properly considering that, I must consider any departures from
11 that range and then I must consider the other sentencing
12 factors under §3553(a).

13 In this case, the parties entered into a plea
14 agreement with a stipulated guideline sentence of 60 months.
15 Probation reached the same sentencing guideline calculation. I
16 too have also reached the same calculation relying on the
17 uncontested facts in the PSR and the record before me.

18 I should note that the parties also agreed, in
19 connection with Mr. Navarro's plea, that he would forfeit a
20 total of \$70,000, which counsel has told me has been done.
21 Mr. Navarro also agreed to pay restitution in the amount of
22 \$25,860,514.

23 Briefly, let me just outline for the record my
24 guidelines calculation. The guidelines provision in effect as
25 of November 1, 2018 apply and govern in this case. With

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1 respect to Count One, which charges Mr. Navarro with conspiracy
2 to commit misbranding and drug adulteration with the intent to
3 defraud or mislead to which Mr. Navarro pled guilty, the base
4 level offense is six and that is regardless of whether we look
5 under sentencing guidelines Section 2X1.1A, 2N2.1 or 2B1.1A2.
6 26 points or levels are added to that by reason of specific
7 offense characteristics. Specifically, the base offense level
8 is increased by 22 levels because the loss exceeded
9 \$25 million. The offense level is increased by another two
10 levels because the offense involved ten or more victims. And
11 the offense level is increased by another two levels because a
12 substantial part of the fraud was committed outside of the
13 United States and otherwise involved sophisticated means.
14 There's a further six point adjustment regarding Mr. Navarro's
15 role in the offense. Two points are added because Mr. Navarro
16 violated his duties under state licenses, abusing a position of
17 trust. And a further four level increase applies because
18 Mr. Navarro was the lead trainer with assistant trainers and
19 vets and others acting at his direction.

20 The Court did apply, as did probation in its
21 sentencing report, the three level reduction for acceptance of
22 responsibility. That results in a total offense level of 35.
23 Although Mr. Navarro does have some prior criminal offenses,
24 including a DUI, and I understand a domestic violence incident,
25 his criminal history score is nonetheless zero, which results

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1 in a criminal history category of I.

2 Based on these offense levels and criminal history
3 calculations, Mr. Navarro's guideline sentencing range would be
4 168 to 210 months in prison.

5 However, the statutory maximum term of imprisonment
6 for the offense to which he has pled guilty is five years. As
7 a result, the guidelines dictate that that sentence of 60
8 months is the guideline sentence. The guidelines also provide
9 a fine range of \$40,000 to \$250,000. And they provide for one
10 to three years of supervised release for a class D felony.

11 Now, as I say, I have carefully considered the
12 sentencing guidelines calculation and the various factors with
13 respect to sentencing that are laid out in Title 18 United
14 States Code §3553(a). At this point, I'd like to discuss or
15 explain my consideration of those factors.

16 First, the crimes that Mr. Navarro committed are
17 serious, they were dangerous, they were cold, and they were
18 calculating. For years, you cheated, Mr. Navarro. And you
19 effectively stole millions of dollars. You cheated other
20 owners, trainers and jockeys against whom your horses competed.

21 At the time of your plea, you specifically admitted
22 certain facts, both in writing in your plea agreement and then
23 orally on the record in open court when I specifically asked
24 you during your plea if the statements in the agreement were
25 true and accurate. Among the facts you admitted are the

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1 following: From in and at least 2016 through on or about
2 March 9, 2020, you administered and directed others, including
3 veterinarians working at your direction, to administer nonFDA
4 approved misbranded and adulterated drugs, including drugs
5 intended to increase the performance of thoroughbred racehorses
6 under your custody and care. Those drugs included blood
7 building substances, vasodilators, imported and misbranded
8 bronchodilators, bleeder pills, SGF 1000 and others. Each of
9 those drugs were misbranded and/or adulterated, insofar as they
10 were new animal drugs that had no FDA approval, they were
11 administered to your horses with no valid prescription and/or
12 they were manufactured in facilities without FDA registration.
13 Among the horses to which you administered such drugs were the
14 horses X Y Jet, War Story, Shancelot, and Nanoosh.

15 Among other incidents that are in the record before
16 me, Mr. Navarro has admitted that he administered these drugs
17 to X Y Jet, including blood building substances from in or
18 about February 2019 through March of 2019 in order to enhance
19 X Y Jet's performance at the allowance optional claiming race
20 at Gulfstream Park in February of 2019 and at the Dubai Golden
21 Shaheen race in the United Arab Emirates on March 30th of 2019.

22 In or about May of 2019, Mr. Navarro and one of the
23 owners of Nanoosh agreed to continue administering such drugs
24 to that horse in order to improve Nanoosh's racing performance.

25 Mr. Navarro admitted he participated in the interstate

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1 shipment and distribution of nonFDA approved, misbranded and
2 adulterated drugs. During the course of that scheme, he
3 provided misbranded bronchodilator drugs to, among other
4 people, the trainer, your co-defendant, Jason Servis. Among
5 your means of evading detection of your unlawful scheme were
6 the use of drugs that you believed would be untestable by
7 racing officials. The coordination of the administration of
8 those drugs with other trainers and vets in order to avoid
9 physical detection by racetrack employees and racing
10 authorities and the preparation in coordination with certain
11 complicit veterinarians of false veterinary bills designed to
12 deceive racing officials and/or racetrack employees who might
13 demand proof of a valid course of veterinary care.

14 You further stipulated that, among other aggravating
15 factors, the applicable intended loss amount at issue in this
16 case was greater than \$25 million. Through this specific
17 conduct, which you admitted, and through your multi-yearlong
18 pattern of conduct reflected in the record before me, you have
19 demonstrated, Mr. Navarro, a callous disregard for the
20 well-being of the horses entrusted to your care. Bottom line,
21 you likely killed and you certainly endangered horses in your
22 care and potentially other horses competing in races you
23 entered. You put at risk of serious physical injury or death
24 the jockeys who rode the horses you drugged and perhaps horses
25 competing against your horses.

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1 Moreover, you bragged openly about what you were
2 doing. You sent, as the government has outlined, text messages
3 with emoji type images of monkeys, rockets, syringes, horses
4 and pills clearly representing the drugs you were
5 administering. And you received texts from an associate with
6 an image of a syringe with the plunger pulled back filling it
7 with dollar bills. You were so open and notorious and brazen
8 about your crimes that you were dubbed the juice man. And you
9 even kept in your barn a pair of crock style shoes that had the
10 words "juice man" across the toes.

11 The record is very clear that, at the same time, you
12 took steps to hide what you were doing from drug regulators and
13 racing officials, and you went to great lengths to avoid
14 detection. The scores of text messages and intercepted
15 conversations reveal that the misbranded, unauthorized and
16 adulterated performance-enhancing drugs were secretly
17 administered, designed to be undetectable in drug tests and
18 that you engaged in an escalating campaign to evade being
19 caught.

20 You did not suffer from a momentary lapse in judgment
21 or engage in a one-time abhorrent act. Rather, the evidence in
22 this case and the facts which you admitted in connection with
23 your plea make clear that you engaged in a multi-yearlong
24 course of bad behavior that has impugned the integrity of the
25 sport of horse racing that you profess to love.

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1 I have carefully reviewed your sentencing submission
2 several times and I've listened to your comments and the
3 arguments of your counsel. While I do accept that you are
4 remorseful and that you are sorry and that you wish you could
5 turn back the clock, you said to me that you didn't think about
6 the consequences that you were facing. You also didn't think
7 about the consequences to the sport of horse racing or to the
8 animals entrusted to your care.

9 There's nothing that I find in your sentencing
10 submission that militates in favor of a variance in this case
11 or anything that I believe justifies a below guidelines range
12 sentence.

13 The letters submitted to me, along with your
14 submission, make it clear that apparently you do have a
15 close-knit, large, loving and supportive family. You
16 immigrated to the United States from Panama when you were a
17 teen, and you realized your family's hope and dream for a
18 better life. Although your father was absent from your life,
19 you were raised by a loving mother and stepfather, who
20 apparently treated you as a naturally born son and taught you
21 about horses and the horse racing industry and introduced you,
22 as I understand it, to your chosen career as a horse trainer.
23 You have no history of abuse, addiction, serious illness, no
24 mental health or emotional problems.

25 The hundred pages of letters and emails of support

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1 that were submitted by you in connection with your sentencing
2 submission paint a picture of a family man, a man of faith, a
3 hard worker, a person who was willing to help those in need and
4 who gave professional opportunities to people trying to find a
5 way in this country or in your sport. Several characterize you
6 as a father figure, big brother, a friend. All of these are
7 admirable traits.

8 But I do have to say that, in all honesty, those
9 letters taken collectively are not helpful to your cause. I
10 note initially that many of the letters of support were
11 submitted by individuals who appear to have been involved to
12 various degrees in the wrongful conduct underlying your
13 conviction. As importantly, many of the letters simply ignore
14 reality and your own admissions of wrongdoing at the time of
15 your plea. The people who wrote to the Court to provide
16 character references or to suggest leniency tell the Court, one
17 after the next, that you, quote, loved horses and the sport of
18 horse racing, that you gave your horses, quote, "the best
19 possible care." That you, quote, "made very good decisions for
20 the safety and welfare of the animals." And quote, "that you
21 always did what was best for your horses," close quote, to
22 quote just a few.

23 The reality is that someone who loves horses does not
24 engage in the conduct that you engaged in or subject the
25 animals you supposedly loved to cruel and dangerous drugs and

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1 treatment. The letters characterize the time since your
2 indictment as, quote, "unfair." They say that everything you
3 lived for was, quote, "taken away," that your, quote,
4 "livelihood was taken away." And that what, quote, "has been
5 done to you is unfair and based on lies."

6 In reality, Mr. Navarro, no one did this to you. You
7 did this to yourself. And you did it to the animals entrusted
8 to your care and to the sport of horse racing.

9 I should also note, as Ms. Mortazavi did, that the
10 Court also received a handful of emails and letters that were
11 gratuitously sent to my chambers by individuals who urge a much
12 harsher sentence. I've disclosed those communications to the
13 government and to Mr. Navarro's counsel, and I have filed them
14 or caused them to be filed on the docket in this case. I will
15 tell you that those letters have not weighed in my fashioning
16 of a sentence in this matter.

17 Now, I'm still somewhat confused, frankly, by
18 counsel's arguments about acceptance of responsibility. I
19 understand you're not seeking a departure and apparently you're
20 telling me not a variance on the grounds that Mr. Navarro
21 accepted responsibility or gave timely notice of an intent to
22 plea. To have requested a departure on that grounds in the
23 first place is wholly inappropriate, as you now seem to
24 recognize. But neither does that argument, in the Court's view
25 provide the basis for a variance. The theory underlying that

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1 argument is simply incorrect. The three point reduction was
2 applied to Mr. Navarro's guideline sentence and calculation.

3 And importantly -- and this is the reason I'm
4 addressing this so everyone understands this point -- to
5 Mr. Navarro's extreme benefit, not to his prejudice and not to
6 his detriment, as you seem to be assuming, he is enjoying the
7 benefits of a statutory maximum of five years on the time to
8 which he is to be sentenced. You ignore the fact that the
9 reason I am constrained by a five year statutory maximum is
10 because the government allowed Mr. Navarro to plead guilty to
11 only one of the two conspiracy counts charged in the
12 indictment, charged against him in the indictment. If he had
13 been convicted at trial on those two counts, he faced ten years
14 in prison for the two charged counts.

15 Moreover, in connection with Mr. Navarro's plea, the
16 government agreed not to pursue other possible charges against
17 him for his conduct. And those other possible charges could
18 well have exposed him to further prison time. So for example,
19 if he had been charged with wire and mail fraud, the penalties
20 for those offenses are far greater than the five year statutory
21 maximum. So he is, in reality, reaping a significant benefit
22 from his timely plea and his acceptance of responsibility.

23 I would just remind everyone that Mr. Navarro swore to
24 me at his change of plea hearing that he pleaded guilty because
25 he was in fact guilty, not because he was promised anything. I

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1 repeatedly warned Mr. Navarro that I could impose any sentence
2 up to the statutory maximum and that nobody, including the
3 government, could promise him less and that he could not take
4 back his plea if he were disappointed with the sentence that
5 would be imposed.

6 Now, while at the same time saying he accepts
7 responsibility and he expresses remorse, which I believe is
8 sincere and genuine, you ask on his behalf and, Mr. Navarro,
9 you point to pressure, outside pressures from owners and from
10 the industry I guess in an attempt to explain your conduct. If
11 you were pressured, it was because you chose to work with and
12 for people who were complicit in a cruel and fraudulent sector
13 of the racing business. And there's evidence before the Court
14 that you were pretty pleased with your choices and proud of the
15 results you achieved until you got caught.

16 You have also made a second argument asking for
17 leniency based on immigration consequences of your conviction.
18 You argue that you're almost certain to be deported which means
19 separation from your family and incarceration beyond the term
20 of imprisonment at an ICE facility.

21 According to the PSR, you are in this country legally
22 as a permanent resident with a Green Card. I do not think any
23 of the potential immigration consequences weighs heavily in
24 favor of leniency here.

25 You told probation, Mr. Navarro, that you came to this

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1 country in 1987 to live the immigration dream. In this
2 country, the American dream is that through hard work one might
3 have amazing opportunities. You achieved that dream. I do
4 believe, contrary to what the government says, that you
5 actually are a talented and skilled horse trainer. But
6 somewhere along the way, you got greedy and you chose to cheat.

7 I warned you at the time of your plea that there could
8 be immigration consequences to pleading guilty. And I
9 specifically asked you and you assured me that you had
10 discussed those consequences with your attorney and you waived
11 any challenge to your conviction and sentence based on
12 immigration consequences regardless of the advice you received
13 about the immigration consequences of your plea.

14 I have carefully balanced your early plea and your
15 expressions of remorse and your professed acceptance of
16 responsibility coupled with your personal characteristics
17 against the seriousness of your conduct and your relative
18 culpability in the charged conspiracies. You enjoyed and you
19 abused a position of trust. And you were a leader of the
20 alleged conspiracies, central to the conspiracies pled in the
21 indictment. You were the lead trainer in your barn, and you
22 directed the actions and conduct of many people, those who
23 worked for you and at your direction and others.

24 The number of victims of your fraud and the magnitude
25 of the intended loss attributable to your conduct is enormous.

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1 Finally, while I have considered the 3553(a) factors,
2 it's appropriate for me to note specifically that in
3 determining the appropriate sentence, the statute directs me to
4 impose a sentence sufficient, but not greater than necessary,
5 to comply with the purposes of sentencing, which include to
6 reflect the seriousness of the offense, to promote respect for
7 the law, to provide just punishment for the offense, to afford
8 adequate deterrence to criminal conduct, and to protect the
9 public from further crimes of the defendant.

10 As we have discussed, I am constrained in this case by
11 the statutory maximum of 60 months' imprisonment. I would
12 impose a longer sentence if the law allowed. But as reflected
13 in the statute, Congress has determined that 60 months is
14 sufficient.

15 Having carefully considered the facts of this case and
16 the purposes of sentencing, I find that sentence is not greater
17 than necessary to serve the legitimate purposes of sentencing
18 set forth in Title 18 United States Code §3553(a). A sentence
19 of 60 months is necessary to send a strong message to
20 participants in the horse racing industry that abuse of the
21 animals entrusted to their care, defrauding racing and drug
22 regulators, stealing from and jeopardizing the safety of other
23 racing participants will not be tolerated and will result in
24 serious consequences.

25 Contrary to what Mr. Kreiss has argued, the threat of

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1 prosecution alone is not enough. A guideline sentence is
2 necessary to afford deterrence to criminal conduct both by the
3 defendant before me today and by others in the racing industry.
4 That sentence is also necessary to promote respect for the rule
5 of law and to provide just punishment, Mr. Navarro, for your
6 conduct.

7 So as I have said, it is the Court's intent to
8 sentence Mr. Navarro to 60 months of imprisonment followed by
9 three years of supervised release with the mandatory and
10 special conditions that are set forth in the PSR that we talked
11 about earlier. In addition, the following special conditions
12 will apply to the term of supervised release: Mr. Navarro must
13 provide the probation officer with access to any requested
14 financial information. You must not incur new credit charges
15 or open any additional lines of credit without approval of the
16 probation officer unless you're in compliance with the
17 installment payment schedules that we need to talk about with
18 regard to the forfeiture order in this case. You must obey the
19 immigration laws and comply with the directives of immigration
20 authorities. If the probation officer determines, based on
21 your criminal record, personal history or characteristics that
22 you pose a risk to another person, including any organization,
23 the probation officer, with the prior approval of the Court,
24 may require you to notify the person about the risk, and you
25 must comply with that instruction. The probation officer may

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1 contact that person and confirm that you have provided notice
2 about the risk.

3 I am not going to impose the additional special
4 condition requested by the government that you be banned from
5 horse racing and that you not apply for further license. I am,
6 however, continuing or imposing as a condition of your
7 supervised release the condition that I added to the bail
8 conditions for all defendants in this case. So Mr. Navarro,
9 while on supervised release, you must comply with the rules and
10 regulations of any licensing regime to which you are or may be
11 subject, including appearances at any proceedings, disciplinary
12 or otherwise, if required, consistent with any constitutional
13 rights, and you will abide by the licensing regulations in
14 effect at the time and the decisions of the individual
15 licensing authorities to whom any application is made.

16 There is, in addition, a \$100 mandatory special
17 assessment payable immediately.

18 In this case, restitution is mandatory. And
19 Mr. Navarro and the government have stipulated to the amount of
20 restitution. I have been given a copy of a proposed order of
21 restitution, which includes the stipulated amount of
22 \$25,860,514, which is payable to the victims of the offense
23 charged in Count One of the indictment.

24 Mr. Navarro's liability for that restitution is joint
25 and several with that of any other defendant ordered to make

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1 restitution for the offenses charged in Count One.

2 The Court will enter the order that has been handed up
3 to me. Mr. Kreiss, I assume you have seen this?

4 MR. KREISS: Absolutely, your Honor. I have reviewed
5 it with Mr. Navarro.

6 THE COURT: And this is on consent?

7 MR. KREISS: Yes, your Honor.

8 THE COURT: The Court will enter that order. But as I
9 say, I do wish to speak with the parties further about the
10 schedule attached to that order, which is the schedule of
11 victims. The government has filed that schedule of victims
12 under seal, as is often customary.

13 Ms. Mortazavi, I do have a question for you. Is it
14 your position that the categories of those victims is
15 confidential and needs to be under seal or just the individual
16 identities of the victims and the amounts to which each is
17 entitled?

18 MS. MORTAZAVI: The categories are not under seal,
19 your Honor. It is the particulars of each victim and what they
20 are owed. And the Court is correct that typically this is
21 filed under seal, including when it involves entities such as
22 banking institutions.

23 THE COURT: Are you prepared to talk to me on the open
24 record about the categories of victims?

25 MS. MORTAZAVI: Certainly, your Honor.

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1 THE COURT: Why don't I reserve that to the very end,
2 and let me finish with the sentence I intend to impose and
3 actually imposing the sentence, and then we'll discuss the
4 specifics of restitution.

5 MS. MORTAZAVI: Very good.

6 THE COURT: In addition to restitution, Mr. Navarro
7 has stipulated to forfeiture in the amount of \$70,000. I
8 understand that that amount has already been paid; is that
9 correct?

10 MR. KREISS: Yes, there was a wire sent to the United
11 States marshal service.

12 THE COURT: And the Court previously entered the
13 preliminary order of forfeiture.

14 Ms. Mortazavi, have you confirmed that that amount was
15 received?

16 MS. MORTAZAVI: That's correct, your Honor. And that
17 amount was received prior to today.

18 THE COURT: Finally, with respect to a fine, the
19 guidelines do say that the Court shall impose a fine unless the
20 defendant is unable to pay. In this case, based on the
21 information found by probation and the information set forth in
22 the PSR, I do find that after forfeiture and restitution are
23 paid, Mr. Navarro is unlikely to be able to pay any fine, and I
24 therefore am not going to impose a fine.

25 Does the government know of any legal reason that the

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1 sentence may not be imposed?

2 MS. MORTAZAVI: No, your Honor.

3 THE COURT: Mr. Kreiss, does the defense know of any
4 legal reason that this sentence may not be imposed?

5 MR. KREISS: No legal reason, your Honor.

6 THE COURT: No objections?

7 MR. KREISS: No objections.

8 THE COURT: Mr. Navarro, would you please stand.

9 It is the judgment of the Court, Mr. Navarro, that you
10 be sentenced to a term of incarceration of 60 months.

11 I will say, we haven't talked about this and there
12 wasn't any comment about this, but Mr. Navarro, in light of the
13 fact that next week is the Christmas holiday, I do understand
14 that you have young children, you have been compliant with the
15 terms of your release pending sentence, I do find that
16 Mr. Navarro is a candidate for voluntary surrender, and so I am
17 not going to be directing that you be taken into custody today.

18 You're directed to voluntarily surrender on
19 January 18th at a facility to be designated by the Bureau of
20 Prisons. I did consult with probation before today about this
21 timing. And counsel will obviously be in touch with the people
22 who make these decisions about designating the facility. And
23 you'll be in touch with the Court if there's a need.

24 I also sentence you to a term of supervised release of
25 three years, subject to the mandatory and standard conditions

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1 in the PSR and the special conditions that I have just put on
2 the record.

3 You must pay a special mandatory assessment of \$100
4 for the count to which you pled guilty. I do find that you are
5 unable to pay a fine after you fulfill your obligations for
6 forfeiture and restitution, and therefore, I am not imposing a
7 fine in this case.

8 I will, as I said, sign the order of restitution
9 directing that you shall pay restitution in the total amount of
10 \$25,860,514 to the victims of the offense charged in Count One
11 of the indictment. That obligation is joint and several with
12 any other defendant ordered to make restitution for the offense
13 charged in Count One of the indictment.

14 You may be seated, sir.

15 Mr. Kreiss, I understand that you have requested and
16 the Court will ask that Mr. Navarro be designated for a
17 facility as close as possible to Florida. I believe you said
18 South Florida.

19 MR. KREISS: I think if the recommendation just states
20 a facility as close to South Florida as possible.

21 THE COURT: Does not Mr. Navarro live in Ocala?

22 MR. KREISS: He's in Ocala and actually the facilities
23 would be in the middle district. So a facility as close to his
24 family to aid in visitation I think would be appropriate.

25 THE COURT: The Court will request that that

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1 designation be made.

2 Is the government moving at this time to dismiss any
3 open counts against Mr. Navarro?

4 MS. MORTAZAVI: Yes, your Honor. We move to dismiss
5 the open counts in the S6 indictment and in the original
6 indictment.

7 THE COURT: Any open counts in the S6 indictment and
8 in the original indictment against Mr. Navarro will be
9 dismissed at this time.

10 Mr. Navarro, I would like to advise you that to the
11 extent you have not waived that right in the plea agreement,
12 you have the right to appeal from your conviction and from your
13 sentence. If you are unable to pay the costs of an appeal, you
14 may apply for leave to appeal *in forma pauperis*. The notice of
15 appeal must be filed within 14 days of the judgment of
16 conviction, which we will finalize as promptly as possible and
17 file it in this case.

18 Let me turn to the question that the Court has with --
19 Mr. Kreiss, did you have something?

20 MR. KREISS: I would ask for one concession, if the
21 Court would consider it, I have spoken with the government, and
22 we would respectfully ask the Court to consider a 60-day
23 surrender, if the Court would permit. This is a significant
24 sentence, and due to the permanency of the resolution of this
25 case and Mr. Navarro going into custody, just so he can be with

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1 his family and get his affairs in order.

2 THE COURT: Ms. Mortazavi.

3 MS. MORTAZAVI: The government does not object and
4 agrees with the Court's assessment that he is a good candidate
5 for voluntary self-surrender.

6 THE COURT: The Court will grant the request. I will
7 tell you in all candor that I said that I had spoken with
8 probation. I directed the 30 days, which probation told me
9 they needed that at the absolute minimum. I do know from
10 experience that it is taking longer than the 30 days for a
11 facility to be designated, sometimes it takes as long as 90
12 days. So the Court will grant the request for voluntary
13 surrender 60 days from today at whatever facility is
14 designated. If one is not designated by that time -- that's
15 what I was alluding to earlier -- obviously, counsel will come
16 back to the Court and will make whatever arrangements have to
17 be made.

18 MR. KREISS: Thank you, your Honor.

19 THE COURT: Now, as I said, I'd like to talk about
20 restitution.

21 Ms. Mortazavi, the general category of victims you
22 have identified for the record, please.

23 MS. MORTAZAVI: The general categories are various
24 racetracks that paid out funds to Navarro that never should
25 have been paid.

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1 THE COURT: Mr. Kreiss, you need to listen to this.

2 Say it again, Ms. Mortazavi.

3 MS. MORTAZAVI: The general categories of victims,
4 your Honor, that are entitled to restitution are the racetracks
5 that paid purse winnings to Navarro for Navarro-trained horses
6 that won races that never should have received purse winnings
7 because they were dosed.

8 THE COURT: That's different than what you said a
9 minute ago, but --

10 MS. MORTAZAVI: Certainly.

11 THE COURT: The question the Court has is the
12 following: Have you discussed with Mr. Kreiss who the victims
13 are?

14 MS. MORTAZAVI: We provided Mr. Kreiss with this
15 schedule of victims prior to today's proceeding. He has seen
16 it and I assume reviewed it with the defendant.

17 THE COURT: The question the Court has is the
18 following -- and really, Ms. Mortazavi, it keys off of how you
19 first formulated to me, before I told Mr. Kreiss to pay closer
20 attention -- you said, the racetracks who paid out purse money
21 that they shouldn't have paid. What it seems to the Court and
22 the reason I have a question is it seems to me that each of
23 these racetracks would have paid the purse regardless of
24 Mr. Navarro's doping of the horses. It just would have paid
25 the purse to somebody other than Mr. Navarro and the other

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1 horses -- actually, they pay it to the owner, I think, and
2 Mr. Navarro gets a share; correct?

3 MS. MORTAZAVI: That's correct, your Honor.

4 THE COURT: The tracks would have paid out that money
5 regardless. So the question I have is how are the tracks the
6 victims and not the owners of the horses who came in second,
7 third, fourth and actually fifth, since the fifth place horse
8 would have been fourth, and as I understand it, a fourth place
9 horse shares in the purse; correct?

10 MS. MORTAZAVI: I understand the Court's concern. And
11 as a practical and legal --

12 THE COURT: It's a question more than a concern.

13 MS. MORTAZAVI: Certainly. The Court's question on
14 this is well taken and something that the government has
15 considered. As a practical and legal matter, the racetracks
16 are going to end up being the clearinghouse for claims.

17 THE COURT: I understand that.

18 MS. MORTAZAVI: By these other competitors for the
19 purse winnings that they believe they are entitled to and are
20 now legally entitled to because of the defendant's admissions.
21 So this was the most practical resolution of attempts to get
22 these monies back to those competitors.

23 THE COURT: I do understand. And frankly, that's part
24 of what I have been pondering. I imagine it's not an
25 impossible task. You have obviously identified the races

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1 involved or you couldn't have identified the racetracks and the
2 appropriate amounts, so you know the races that were implicated
3 here. It's not a particularly difficult task to figure out who
4 came in second, third, fourth and fifth, and you could get that
5 from the charts and other online databases and certainly the
6 racetracks would have it. But by what you are doing, you are
7 placing a burden now on these racetracks to go back and
8 recalculate everything.

9 Have you been in touch with these tracks?

10 MS. MORTAZAVI: The tracks are aware of our case. We
11 have obviously been in contact with them throughout this case.

12 THE COURT: But are they aware of your intent to put
13 this burden on them?

14 MS. MORTAZAVI: I believe, your Honor, that burden is
15 going to shift to them because the other competitors are going
16 to go to the racetracks, in any event, to attempt to receive
17 these funds. They wouldn't be able to go to the government in
18 the first instance for these funds because we won't have them
19 in our possession. So in a way, this is bridging the gap,
20 because competitors will be turning to the racetracks, as I
21 mentioned, in any event, following today's proceeding. And
22 this will provide a mechanism by which the racetracks can
23 rectify the wrongs that have been caused.

24 THE COURT: Any comment from you, Mr. Kreiss?

25 MR. KREISS: No.

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1 THE COURT: The Court will enter the consensual order
2 of restitution, then. It does appear that you have thought
3 through the logistics. The only piece of it that I think isn't
4 factored in is the additional cost and expense and burden on
5 the tracks, but I suppose that is part of the cost of doing
6 business.

7 Thank you, Ms. Mortazavi.

8 MS. MORTAZAVI: Thank you, your Honor.

9 THE COURT: Before we depart, there are two orders of
10 business.

11 Mr. Navarro, I would just like to speak to you
12 directly. I take to heart your comments that you have used
13 this period of time since your indictment to really do some
14 serious soul searching, to try to become a better man, to try
15 to go back to what people have painted you once were. I just
16 implore you to use this time that you are incarcerated to
17 continue that journey, to think about what you're going to do
18 productively once you're released from prison and to continue
19 to strive to be the best person that you can be under the
20 circumstances.

21 I thank our court reporter for being with us today.
22 It's been a rather long proceeding, but thank you.

23 Is there any other business, Ms. Mortazavi?

24 MS. MORTAZAVI: Nothing further. Thank you.

25 THE COURT: Ms. Kreiss.

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1 MR. KREISS: Nothing further, your Honor.

2 THE COURT: Thank you.

3 Best wishes to you, Mr. Navarro. It's odd to say
4 under the circumstances, but I wish everyone as happy a holiday
5 and as merry a Christmas and a good new year as you can have.
6 Thank you. We're adjourned.

7 (Adjourned)

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